

**APPLICATION FOR**

**DISTRICT COURT JUDGESHIP**

**Eighth Judicial District**

**A. PERSONAL INFORMATION**

1. Full Name: Matthew Stuart Robertson
- a. What name do you commonly go by? Matt Robertson
2. Birthdate: [REDACTED] Are you a U.S. citizen? Yes
3. Home Address: [REDACTED]  
[REDACTED]
4. Office Address: 121 4<sup>th</sup> Street North, Suite 2A, Great Falls, MT 59401  
Phone: 406-454-6915
5. Length of residence in Montana: 46 years
6. List your place of residence for the last five years:
- | <u>Dates</u>            | <u>City</u>                      | <u>State</u> |
|-------------------------|----------------------------------|--------------|
| March 4, 2007 - Present | 51 Old Ulm Cascade Road, Cascade | Montana      |

**B. EDUCATIONAL BACKGROUND**

7. List the names and location of schools attended, beginning with high school:

<u>Name</u>	<u>Location</u>	<u>Date of Degree</u>	<u>Degree</u>
CM Russell High School	Great Falls, Montana	May, 1985	Diploma
University of Montana	Missoula, Montana	June 9, 1990	B.A. and B.A.
U of M, School of Law	Missoula, Montana	May 15, 1993	Juris Doctor

8. List any scholarships, awards, honors and citations that you have received:

I have been presented with numerous citations for my work on the Montana Youth Court Act and with juvenile offenders during the court of my career in presenting new statutory changes to the District Court Judges Conference when I was a Special Assistant Attorney General, through my presentations at the Montana Board of Crime Control. I was asked by the Office of the Public Defender to attend a training on Indigent Defense by former managing attorney, Betty Carlson, and was further asked to testify before the Colorado legislature on the issue of juvenile justice and adult incarceration. I have been honored by the Montana Supreme Court Administrator's Office on numerous occasions and have been selected to be a member of the Montana Drug Court Peer Review Process and completed the training this past February.

9. Were you a member of the Law Review? If so, please state the title and citation of any article that was published and the subject area of the article.

No

### **C. PROFESSIONAL BACKGROUND AND EXPERIENCE**

10. List all courts (including state and federal bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the dates of admission in each case.

<u>Court or Administrative Body</u>	<u>Date of Admission</u>
Montana Supreme Court, Montana	September 21, 1993
Montana Federal District Court, Montana	October 5, 1993
9 <sup>th</sup> Circuit Court of Appeals	March 12, 1998
United States Supreme Court	November 27, 2000

11. Indicate your present employment (list professional partners or associates, if any).

Cascade County Attorney's Office, Great Falls, Montana.

I have the privilege of working with John Parker, Cascade County Attorney, Susan Weber, Chief Criminal Deputy Cascade County Attorney, Carey Ann Shannon, Chief Civil Deputy County Attorney, Kory Larson, Joshua Racki, , Jennifer Quick, Amanda Lofink, Ryan Ball, Valerie Winfield, Ashley Wilkinson, Chris Hofmann, Sonia Pospisil and Stephanie Fuller; Deputy Cascade County Attorneys.

12. State the name, dates and addresses of all law firms with which you have been associated in practice, all governmental agencies or private business organizations in which you have been employed, periods you have practiced as a sole practitioner, and other prior practice:

<u>Employer's Name</u>	<u>Position</u>	<u>Dates</u>
Cascade County Attorney's Office	Deputy County Attorney	2003 – Present
Montana Department of Corrections	Special Assistant Attorney General	1998 – 2003
Western Intermodal Transport, LTD.	In-House Counsel	6-1997 to 12-1997
Anderson, Robertson, and Stevens, PLLP	Partner	10/1993 – 6/1997

13. If you have not been employed continuously since the completion of your formal education, describe what you were doing.

Not Applicable.

14. Describe the nature of your present law practice, listing the major types of law that you practice and the percentage each constitutes of your total practice.

I am currently employed by the Cascade County Attorney's Office as a prosecutor where I practice in the civil and criminal fields dealing with juvenile justice issues in both the Youth Court and the Criminal Court pursuant to the Montana Youth Court Act. I am also involved in civil practice in the areas of prosecuting Youth in Need of Care cases. I deal with civil litigation on the defense aspect when Cascade County is the defendant in lawsuits by inmate litigators and when it involves issues with the Cascade County Regional Juvenile Detention Center and with inmate sentence calculation litigation, or habeas corpus petitions. I provide legal advice to the Cascade County Commissioners as requested, primarily through other counsel when it deals with juvenile justice issues, primarily with detention and shelter care issues. I advise and defend the Cascade County Juvenile Detention Center and provide

training to their staff on the treatment, care and custody of inmates under their care. I have also taught at the judicial training course on the Montana Youth Court Act during the most recent course in Helena at the request of the Supreme Court Administrator's Office.

15. List other areas of law in which you have practiced, including teaching, lobbying, etc.

During my private practice in Missoula and Lolo, Montana, I assisted clients with criminal defense in felony and misdemeanor cases in Missoula and Ravalli County. I represented clients in child custody and dissolution of marriage proceedings, including property disputes. I assisted clients in civil defense for tort litigation and assisted many clients with incorporating or forming partnerships for purposes of conducting business. I represented clients in the Water Court on the issue of water rights in the Bitterroot Valley. I assisted the courts in representing children as a CASA-CAN Attorney Guardian Ad Litem on a pro-bono basis, and as a court-appointed guardian ad litem in several cases. I was also appointed to assist in the closing of estates where the personal representative had failed to act, or had died during the course of the estate process and worked with the heirs to close estates by appointment of the Missoula and Mineral County Judges.

When I worked as in-house counsel for a company I assisted in creating, Western Intermodal Transport, Ltd., I provided legal counsel and acted as the Human Resources Director. I also negotiated contracts, reviewed contracts with various vendors, and dealt with GST Corporation, NYK, Ltd., Burlington Northern Santa Fe Railroad, Union Pacific Southern Pacific Railroad, and various port-drage and commodities companies on the transportation and delivery of commodities in the intermodal drage business of my employer. During my employment I was involved in disciplinary proceedings of employees and termination of employees for just cause as the director of human resources. I also addressed employee grievances.

During my employment with the Montana Department of Corrections as a Special Assistant Attorney General, I engaged in the defense of the State of Montana from inmate civil rights litigation under U.S.C. §1983 in the Federal District Courts. I also defended the Department in Habeas Corpus proceedings before the District Court, the Federal District Court, the 9<sup>th</sup> Circuit Court of Appeals, the Montana Supreme Court, and the United States Supreme Court, on a wide variety of issues. Many of the issues which arose during these habeas corpus proceedings involved the calculation of the inmate's sentence and I became an expert in the calculation of an inmate's sentence or sentences, including the calculation and impact of "good time" on an inmate's sentence while working with Janet Cox, the chief

of records at the Montana State Prison. I was one of the primary developers of the sentence calculation spreadsheet which is still utilized by the Montana Department of Corrections in the calculation of an inmate's sentence. I developed the strategy in consultation with Director Rick Day, to amend statutes to address the issue of serious assaults inside the juvenile correctional facilities as at that time there were not any real consequence for the offenders in the facility. I drafted legislation which made it a direct file offense under M.C.A. §41-5-206(1)(a), to charge juveniles who assault law enforcement or corrections and detention officers directly in the District Court with criminal penalties, to address juveniles who assaulted staff in correctional facilities. I then lobbied for the passage of the legislation which was implemented by the 1999 legislature. I was then sworn in as a Special Assistant Deputy County Attorney for Custer and Jefferson Counties and prosecuted juvenile offenders who committed offenses inside the Pine Hills and Riverside Youth Correctional Facilities following the enactment of the law. I also lobbied for amendments to the Extended Jurisdiction Juvenile Prosecution Act with the Honorable Judge John Larson, to correct the constitutional defects as found by the Montana Supreme Court. I crafted the Criminally Convicted Youth Act codified at M.C.A. §41-5-2501, et. seq., after discussions with Pine Hills Youth Correctional Facility Superintendent Steve Gibson, to address the issues involving juveniles who were prosecuted as adult offenders pursuant to M.C.A. §41-5-206, and ultimately convicted of criminal offenses in the District Court. The Criminally Convicted Youth Act allows juveniles to petition for review of their sentence before the court of conviction for a quasi-sentence review by the courts. I was an instructor at the Montana Law Enforcement Academy from 1999 through 2003, and taught Corrections and Detention Officer Basic and Use of Force courses in Law Enforcement Basic and Corrections and Detention Officer Basic. I became the Juvenile Justice Specialist for the Montana Department of Corrections and the State of Montana and testified as an expert in proceedings involving the application of the Montana Youth Court Act and provided legal opinions to courts and prosecutors across the State. I am still consulted by attorneys in other jurisdictions and judges on the impact of the Montana Youth Court Act, the Interstate Compact on Juveniles, and other issues involving juvenile justice in Montana.

16. If you specialize in any field of law, what is your specialty?

I am recognized as a specialist in the field of juvenile justice in the State of Montana for my extensive experience with the Montana Youth Court Act, the Interstate Compact on Juveniles and my work to lobby for amendments, changes, and improvements to the Montana Youth Court Act during my tenure with the Montana Department of Corrections, and during the past 12 years as a practitioner who specializes in the prosecution of juvenile offenders for Cascade County. I am also recognized as a specialist in treatment court programs and have been invited to participate in the Montana Supreme Court Administrator's Peer Review Program which evaluates and suggests improvements in the implementation of adult treatment court programs throughout the State of Montana. I have been involved in and implemented many administrative and policy changes in Cascade County involving the care and custody of juvenile offenders. I was one of the primary people to implement detention reform in detention facilities through the Juvenile Detention Alternatives Initiative in collaboration with the Annie Casey Foundation and the Alliance for Youth. Additionally, I remain a part of a work group which is working on addressing many other issues facing juvenile offenders, including the Disproportionate Minority Contact issue with the Montana Board of Crime Control.

17. Do you regularly appear in court? Yes.

What percentage of your appearance in the last five years was in:

Federal court	_____	%
State or local courts of record	100	%
Administrative bodies	_____	%
Other	_____	%

18. During the last five years, what percentage of your practice has been trial practice?

Approximately 75%

19. How frequently have you appeared in court?

I have appeared in court approximately 20 times per month over the past 12 years.

20. How frequently have you appeared at administrative hearings?

Zero times per month on average.

21. What percentage of your practice involving litigation has been:

Civil	<u>25%</u>
Criminal	<u>25%</u>
Other (Quasi-Criminal Youth Court)	<u>50%</u>

22. Have you appeared before the Montana Supreme Court within the last five years? If so, please state the number and types of matters handled. Include the case caption, case citation (if any), and names addresses and phone numbers of all opposing counsel for the five most recent cases.

I last argued a case before the Montana Supreme Court at oral arguments in *WORDEN, Plaintiffs and Appellants, v. MONTANA BOARD OF PARDONS AND PAROLE*, Defendants and Respondents, which was decided: July 7, 1998. I have not been counsel of record on an appeal, habeas corpus proceeding, or other matter since I took a position with the Cascade County Attorney's Office in September, 2003, because the appeals have been handled by the Montana Attorney General's Office Appellate Bureau. I have had numerous cases taken up on appeal, and to my knowledge I have only had one case returned to the District Court to correct a perceived error.

23. State the number of jury trials that you have tried to conclusion in the last ten years. Over 10
24. State the number of non-jury trials that you have tried in the last ten years. Over 300
25. State the names, addresses and telephone numbers of adversary counsel against whom you have litigated your primary cases over the last two years. Please include the caption, dates of trial, and the name and telephone number of the presiding judge. If your practice does not involve litigation, give the same information regarding opposing counsel and the nature of the matter.

1. The names, addresses and telephone numbers of adversary counsel against whom I have litigated my primary cases over the last two years are:

Matthew McKittrick  
Regional Deputy Public Defender,  
615 2nd Avenue North #3  
Great Falls, MT 59401  
(406) 770-3200  
Youth in Need of Care cases

Lawrence LaFountain  
Deputy Public Defender  
615 2nd Avenue North #3  
Great Falls, MT 59401  
(406) 770-3200  
Youth in Need of Care cases

Cara MacDonald  
Deputy Public Defender

Jane Berger  
Deputy Public Defender

615 2nd Avenue North #3  
Great Falls, MT 59401  
(406) 770-3200  
Youth Court cases

Betty Carlson  
Assistant Public Defender  
P.O. Box 200145  
139 N Last Chance Gulch  
Helena, MT 59620  
(406) 788-5656  
Youth Court cases

Patrick L. Paul  
Paul Law Offices  
300 Central Avenue  
Great Falls, MT 59401  
(406) 761-1830  
Youth in Need of Care cases

Meghan Lulf-Sutton  
Sutton, Dubois, and Mills, PLLC  
1 5th St N  
Great Falls, MT 59401-3107  
(406) 771-7477  
Youth Court and YINC cases

615 2nd Avenue North #3  
Great Falls, MT 59401  
(406) 770-3200  
Youth in Need of Care cases

Jeff Olson  
Attorney at Law  
410 Central Ave Suite 302  
Great Falls, MT 59401  
(406) 788-8748  
Treatment Court Defense Counsel  
Criminal cases

Carl Jensen  
Attorney at Law  
410 Central Avenue Suite 506B  
Great Falls, MT 59401  
(406) 899-6696  
Youth Court cases

Jeff Sutton  
Attorney at Law  
417 Central Ave Suite 2B  
Great Falls, MT 59401  
(406) 453-1673  
Youth Court, YINC and Criminal cases

2. Captions, dates of trial, and the name and presiding judges on trials over the past 2 years

*State of Montana v. Kaleb Kuebler, CDJ-13-005(A), June 2-4, 2014*

Opposing Counsel: Betty Carlson

Presiding District Court Judge: Gregory G. Pinski, (406) 454-6894

Aggravated Assault charge committed in the Cascade Juvenile Detention Center against an out-of-county juvenile while the Defendant was in custody on sexual intercourse without consent charges which later went to trial. The Defendant was sentenced to the maximum sentence allowed by statute under the Montana Youth Court Act.

*State of Montana v. Colton Davidson, BDJ-12-091(C), April 28-30, 2014*



Opposing Counsel: Carl Jensen

Presiding District Court Judge: Kenneth R. Neill, (406) 454-6897

Sexual Assault charge against the Defendant who sexually assaulted two young boys in a tent while camping. The Defendant was convicted by the jury and sentenced to the maximum sentence allowed by statute by the Montana Youth Court Act.

*State of Montana v. Shawn Theodore Damon, DDC-11-283, July 5-7, 2013*

Opposing Counsel: Daniel Minnis

Presiding District Court Judge: Daniel Boucher, (406) 265-5481x231

Theft of property from a victim's yard, the value of the property as estimated by the victim amounted to more than \$1,500. The stolen property included radiators and other aluminum metal objects which were scrapped for money. The Jury found that the property value was less than \$1,500 and convicted the Defendant of misdemeanor theft charges.

The bulk of my other cases are proceedings before the Montana Youth Court and involved virtually every offense imaginable over the past 10 years from Homicide to Disorderly Conduct; or they involved Youth in Need of Care proceedings which are confidential proceedings not subject to public disclosure. The majority of the non-confidential proceedings have been closed and the cases sealed pursuant to the Montana Youth Court Act. Nearly all of my other cases involving bench trials were confidential proceedings concerning Youth in Need of Care and the abuse and neglect of children and are not listed by name, title, or otherwise, but are included in the statistics on how many cases I have taken to bench trial listed above.

26. Summarize your experience in adversary proceedings before administrative boards or commissions during the last five years.

I have not appeared before any administrative boards or commissions in the past five years.

27. If you have published any legal books or articles, other than Law Review articles, please list them, giving citations, dates, and the topics involved. If you lectured on legal issues at continuing legal education seminars or otherwise, please state the date, topic and group to which you spoke.

I have not published any articles. I have lectured on the Montana Youth Court Act before the Judicial Training on the topic of the Montana Youth Court Act, I do not recall the dates, but it was prior to Judge Pinski being sworn in as a Judge. I have lectured at the Montana Board of Crime Control several times on various topics including the Montana Youth Court Act and upon other topics as requested, I do not recall the dates.

#### **D. PROFESSIONAL AND PUBLIC SERVICE**

28. List all bar associations and legal professional societies of which you are a member and give the titles and dates of any office that you have held in such groups and committees to which you belong. These activities are limited to matters related to the legal profession. List the dates of your involvement.

Montana State Bar Association, October 1993 – Present

Cascade County Bar Association, February 2015 - Present

Missoula County Bar Association, November 1993 – December 1997

29. List organizations and clubs, other than bar associations and professional societies, of which you have been a member during the last five years. Please state the title and date of any office that you have held in each organization. If you held any offices, please describe briefly your activities in the organization.

Great Falls Gaming Rendezvous, Inc., a non-profit public charity which raises funds for charitable purposes, currently to fund scholarships with local colleges and universities. I assisted the current president of the organization and the group of volunteers in organizing the charity, drafted their corporate documents and processed the documents for them to become an IRS 501(c)(3) public charity organization and continue to serve the board on issues concerning their fundraising events and filing any required paperwork with the State and Federal government agencies on a pro-bono basis. I have been involved since 2012 with the organization.

30. Have you ever run for or held public office? If so, please give the details.

I have not run for or held public office since graduation from law school. I was campaign manager for Matthew Denny, during both of his campaigns for Representative in Missoula.

31. Please explain your philosophy of public involvement and practice of giving your time to community service.

I have volunteered my time with the Montana Eighth Judicial Drug Treatment Court by taking the juvenile offenders who participate in this program on various outings and events. I take the youth involved in the program on an annual float trip to show them alternative activities they can engage in while living in Montana instead of recreational drugs, as well as participating in other scheduled events as time permits. I conceived the idea shortly after the creation of the drug court and I organized and planned the events from the inception of the program in 2006, until additional funding became available through charitable organizations. I support public involvement by providing my time to charitable organizations which work to improve the community and advance educational opportunities. I assisted in the implementation of the Veteran's Treatment Court program and supervised the program on behalf of the Cascade County Attorney's Office and advised Judge Pinski on eligibility issues for possible participants and sought out the initial group of participants.

#### **E. PROFESSIONAL CONDUCT AND ETHICS**

32. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, give the particulars.

No.

33. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, please explain.

No.

34. Have you ever been arrested or convicted of a violation of any federal law, state law, county or municipal law, regulation or ordinance? If so, please give details. Do not include traffic violations unless they also included a jail sentence.

No.

35. Have you ever been found guilty or liable in any civil or criminal proceedings with conduct alleged to have involved moral turpitude, dishonesty and/or unethical conduct? If so, please give details.

No.

36. Is there any circumstance or event in your personal or professional life which, if brought to the attention of the Commission, the Governor or the Montana Supreme Court would affect adversely your qualifications to serve on the court for which you have applied? If so, please explain.

No.

#### **F. BUSINESS AND FINANCIAL INFORMATION**

37. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, please give details, including dates.

I was the Human Resources Director and in-house Counsel for Western Intermodal Transport, Ltd., in which I practiced law and assisted in the conduct of the affairs of the corporation. The details are addressed in my list of experience above. I worked for the company as their attorney and became the in-house counsel for six months from June 1997 through December 1997, and resigned on December 31, 2007.

38. If you are an officer, director, or otherwise engaged in the management of any business, please state the name of the business, its nature, and the nature of your duties. If appointed as a District Court Judge, state whether you intend to resign such position immediately upon your appointment.

I am currently a silent partner at Kelly's Komix, a local game store in which I assist with stocking games, comic books, and collectible memorabilia. The nature of my duties involves stocking shelves, running games which are sold by Kelly's Komix, interacting with customers, retail sales, and cleaning the store. I do not intend to resign my duties unless it is deemed necessary to the integrity of this office as it is mainly a hobby of mine, and I do not benefit from my duties in any pecuniary way.

39. State whether during the last five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise or organization. If so, please identify the source and the approximate percentage of your total income it constituted over the last five years.

None.

40. Do you have any personal relationships, financial interests, investments or retainers that might conflict with the performance of your judicial duties or which in any manner or for any reason might embarrass you? If so, please explain.

No.

41. Have you filed appropriate tax returns as required by federal, state, local and other government authorities? ☒ Yes ☐ No

If not, please explain.

Not Applicable.

42. Do you have any liens or claims outstanding against you by the Internal Revenue Service (IRS)?  
☐ Yes ☒ No

If yes, please explain.

Not Applicable.

43. Have you ever been found by the IRS to have willfully failed to disclose properly your income during the last five years? If so, please give details.

No.

#### **G. WRITING SKILLS**

44. In the last five years, explain the extent to which you have researched legal issues and drafted briefs. Please state if associates or others have generally performed your research and the writing of briefs.

I research and write my own briefs in virtually every case. In the rare exception, I receive assistance, advice and suggestions from other attorneys in the office when addressing issues which they have had more experience with during their careers. I do all of my research, but I have had assistance on some briefs with research and drafting in certain complex cases. If I encounter an issue which contains issues which are new and novel, and in which other counsel have more experience, I will consult with them, or review the various brief banks available to prosecutors and have on occasion sought out and received advice from other prosecutors within and without the State of Montana. When I worked for the Montana Department of Corrections, I wrote most of my own briefs with the rare exception being those which involved issues which were before the Montana Supreme Court, the 9<sup>th</sup> Circuit Court of Appeal, or the United States Supreme Court, where the briefs were drafted by numerous attorneys and which were reviewed by counsel inside and outside of the Montana Department of Corrections.

In issues which are not novel, or new and the response is generally a boiler-plate response on the current state of the law, I use the current briefs submitted in prior cases which have been amended to apply to the current case at bar and update the research on the most recent court opinion on the subject.

I do not have associates, or a paralegal who conducts research for me on a regular basis, as there is not sufficient time for any person in this office to have a research associate. I am required to perform my own research on issues and write my own briefs.

45. If you have engaged in any other types of legal writing in the last five years, such as drafting documents, etc., please explain the type and extent of writing that you have done.

I regularly draft, file and charge persons with crimes in youth court, District Court, and file civil petitions concerning parents involved in Youth in Need of Care proceedings before the District Court. I also draft and respond to discovery requests, file responses to discovery motions, responses to various motions on criminal and civil cases, including motions to suppress, and motions to dismiss. I draft proposed orders for the District Court Judges of the 8<sup>th</sup> Judicial District Court following contested case hearings, including the Findings of Fact, Conclusions of Law, and Orders in Youth Court and Youth in Need of Care proceedings every week for review and execution by the Court. I draft proposed orders for the court on a weekly basis for review by the Court following proceedings which occurred earlier that day, or during a hearing held previously, but generally have the proposed order to the Judge within one to five business days.

46. Please attach a writing sample of no more than ten pages that you have written yourself. A portion of a brief or memorandum is acceptable.

See Exhibit 1, attached.

47. What percentage of your practice for the last five years has involved research and legal writing?

Approximately thirty to forty percent of my time is spent drafting legal documents and researching legal issues in response to briefs or filings involved in my case load. This is an approximate amount of time as I have been involved in a wide variety of proceedings over the past 12 years at the Cascade County Attorney's Office and generally I draft all the orders following the hearings on cases in Youth Court and in Youth in Need of Care proceedings in which I am the lead counsel. Generally, I have to research issues which are raised in motions filed by defense counsel in response to their motions to suppress evidence, to address issues involved in Youth in Need of Care proceedings, and in the various criminal proceedings where I represent the State.

48. Are you competent in the use of Westlaw and/or Lexis?

I am competent in the use of both Westlaw and Lexis having used both research engines in my practice with the Montana Department of Corrections and the Cascade County Attorney's Office over the past 16 years.

## **H. MISCELLANEOUS**

49. Briefly describe your hobbies and other interests and activities.

I have a family and I am currently raising five children, my fourteen year old son, my thirteen year old daughter, my twelve year old step-son, my nine year old step-daughter, and my three year old daughter. Most of my free time is consumed by making sure that my son gets to his Pep-Band activities, that my daughter gets to her volleyball or track practice, that my step-son gets to his violin lessons and his other activities, that my children get their homework completed, that everyone makes it to their numerous appointments, and spending time playing with and reading to my three year old daughter. When I have time, after the children are in bed, or on weekends, my primary hobby is reading and researching military history and has been since I was approximately 11 years old, which I then use to re-create battles and scenarios from historical battles with miniature soldiers. I paint and paint military miniatures as a part of my hobby and have done so for more than thirty-five years with my father, who was a history teacher at CM Russell High School. In addition to researching military history and modeling, I like to ride my bike, spend time in the outdoors at the family cabin outside Cascade in the mountains. I am also involved in shooting sports and engage in target practice. I have completed several firearms courses and enjoy shooting with my family and my uncle, Ken Robertson, former editor of the Tri-City Herald, in the Tri-Cities area of Washington.

50. Describe the jobs that you have held during your lifetime.

Following High School, I worked at the KOA as a grounds keeper for the summer of 1985 and then went to college at the University of Montana where I was hired for work-study programs at the Chemistry and Pharmacy labs to assist with the operation of the labs, copying tests and exams, worksheets, and other duties as assigned by my supervisor. Following school in 1986, I took a job

delivering pizza for Stageline Pizza in Great Falls, as well as working for the Montana State Fair as a night show ticket sales clerk during the summer. I remained working at the Montana State Fair in the summers from 1986 through 1988, and working at work-study programs on campus at the University of Montana in the computer labs. In 1989, I was hired by Anderson Enterprises in Missoula, Montana, where I worked construction and renovated houses for rental units by college students until I finished law school, in 1993.

51. Please identify the nature and extent of any pro bono work that you have personally performed during the last five years.

I have been precluded from the performance of most pro-bono work due to the nature of my job duties as a sworn Deputy Cascade County Attorney and the problems which could be created by providing pro-bono services to clients or organizations because any legal violation could cause a conflict of interest for my agency which would require that the matter be referred to the Attorney General or another county attorney to prosecute. I have performed pro-bono work on behalf of the Great Falls Gaming Rendezvous, Inc., by assisting them with drafting articles of incorporation and qualifying the organization as an IRS 501(c)(3) public charity organization founded to provide scholarship money to students and to benefit disadvantaged youth.

52. In the space provided, please explain how and why any event or person has influenced the way you view our system of justice.

I have worked in a wide variety of positions throughout my career with the law and in that process I have been influenced by a wide number of people and events which have influenced my view of the justice system. When I first started practice as a student-intern at ASUM legal services, I was inspired by my supervisor, Bruce Barrett, who instilled in me the desire to do the best that I could in advocating for my clients in family law cases and in prosecuting various proceedings allowed within the scope of my duties. It often came down to spending quality face-time with the client to discuss their concerns, fears, hopes, and legal problem, to craft an appropriate plan to resolve their current legal problem, whether it was child support payments, property settlements, or simply to be heard by the court to voice their side of a case and make the opponent listen to what they had to say.

Following my work as an intern and as a newly minted attorney, I was inspired by the various Judges in Missoula County who presided over the cases I litigated. These Judges were willing to guide



me, a young and inexperienced attorney, through the myriad problems which are encountered by every new attorney. The Judges taught me important lessons in ways which were at times painful, and in other instances inspiring, but the lessons were necessary to my becoming a better lawyer. The Judges showed me that the people who end up before the court look to Judges to be fair and impartial when ruling on their case, but that the clients looked to their counsel to guide them, while retaining their dignity and integrity as people.

After leaving Missoula, I started working for the Montana Department of Corrections and I had the fortune to work for David Ohler, and to work with Bill Gianoulis at Risk Management and Tort Defense, on a wide variety of cases facing the Corrections Department. Mr. Ohler inspired me to become a specialist in juvenile justice issues by first asking me to be the specialist for the Department and to read and review all of the case law and the statutory law which governed juveniles involved in the criminal justice system. Mr. Ohler and Mr. Gianoulis also showed me that sometimes cases are worth taking to trial, even though the final outcome is nearly a foregone conclusion. They taught me that the justice system is not about winning and losing, but it is about representing a client's interests and making certain that your client's side of the story is heard. They taught me that our justice system is in place to voice publicly the issues and concerns, which are beyond the scope of the actual case or controversy, but which will have a lasting impact on the future.

In representing Cascade County and the State of Montana as a Deputy Cascade County Attorney, I have been influenced by Brant Light, who showed me that every crime victim needs a voice in the system and that as a prosecutor you need to be that voice to stand up on their behalf and to protect society from criminal offenders. Mr. Light also taught me that while doing so, you cannot lose sight of the fact that the defendant is also a person and that justice is not in the imposition of maximum sentences, but in holding the defendant accountable for their action and letting the court be the final say on what punishment should be meted out in each case. Finally, our justice system has shown me that it is not about being black and white, or right versus wrong, but that it can evolve to include proceedings which are aimed at dealing with problems in new and novel ways, like the drug court programs, and the juvenile detention alternatives initiative. These experiences have demonstrated to me that it is not about the individual case, but about the processes, the proceedings, and being fair to all persons.

53. In the space provided, explain the qualities that you believe to be most important in a good District Court judge.

A good District Court Judge has the ability to carefully listen to all sides of a case; to listen to both the legal arguments made and the equitable positions presented by the parties; before rendering a decision. A good judge will have patience and allow the parties appropriate amounts of time to present their cases so the parties feel they have been heard, while imposing appropriate time constraints to make certain that all cases can be heard within a reasonable period of time. In many instances the ability of the court to hear both sides and to address concerns of both parties when crafting a resolution of a case creates a lasting solution to the problem, whether it is a criminal proceeding or a civil proceeding. The ability to be heard, to have the court acknowledge that each party has value in society and that while the ruling may not be in their favor, they were heard by the judge is what the parties need more than the actual ruling on the merits. It is the impression that the Court has allowed both sides to tell their story and not merely to be allowed present in court.

A good judge must be honest in his dealings with all parties and must hold himself to a very high moral standard in his position within society. A good judge must be able to make decisions with finality and not waiver unless there is clear and convincing evidence that an injustice has been done. A good judge should have a wide variety of experiences prior to becoming a judge to reflect back on when considering the issues which will arise and which could arise in any case. A judge must be intelligent and able to quickly and thoroughly distill the facts and legal issues which are brought before it. A good judge will have an excellent understanding of the current case law, the statutory provisions, and have the ability to apply that law to the present factual problem to render a fair decision. The ability to be candid with all people who appear before the court and to engender a sense of respect through courteous interactions is also a primary requirement of a good judge.

54. In the space provided, explain how a court should reach the appropriate balance between establishment of a body of precedent and necessary flexibility in the law.

The essence of striking a balance between precedent and flexibility in the law is the ability of a judge to provide predictability to the public and the legal practitioners, while at the same time being fair and even-handed to the parties who are the subject of the judge's rulings. One accomplishes this by understanding the legal precedent which becomes apparent in each case based upon the briefs of the parties and the courts own legal research, and then being able to analogize the law to case at bar to arrive at a fair and just ruling. When a court finds facts which do not fit within any precedent, the court should analogize the law to the facts in a way that the legal principles are not contorted, or twisted, but draw

conclusions which are based upon sound legal reasoning with reference to the precedent, and the societal and policy considerations of the underlying statute, and then apply them to the facts to reach a result which comports with the intents of the law and the precedent which has some analogous factual basis to the case.

55. In the space provided, state the reasons why you are seeking office as a District Court judge.

I am applying to become a District Court judge to insure the concepts of humility and fairness remain ever prevalent to those seeking to be heard, and to have justice served. I have practiced before more than thirty judges during the course of my career in both Federal and State courts. Each judge has inspired me to be better at my profession, to delve deeper into the law, to better understand the facts, and to seek justice; even when that may be something which did not comport with my original beliefs on a case which I was prosecuting. I want to be a judge who inspires others to do better, to comply with the law, and to continue to make our country better. A judge is uniquely positioned to do all of those things, and I believe that I can provide that type of leadership.

56. What items or events in your career have distinguished you or of which you are most proud?

I have worked to implement and improve the justice system by working with Judge McKittrick, Judge Neill and Judge Pinski in the creation, implementation and operation of the three drug courts which are currently operating in the Eighth Judicial District Court. During my time working on these problem solving courts, I have suggested changes, worked to maintain the number of participants in each court, and worked to improve the usage of these courts with individuals who have substance abuse issues and who are involved in the legal system. I have enjoyed working closely with Jeff Kushner on issues facing the drug court model and with many other issues which impact the justice system such as juvenile detention alternatives and the JDAI initiative of the Annie Casey Foundation. I am pleased to have reduced or eliminated juveniles from the detention center for many offenses which prior to my work in Cascade County, would have resulted in an extended stay in the juvenile detention center.

I have had the honor of arguing a case before the Montana Supreme Court, which resulted in my state agency receiving the ruling they hoped for at the outset of the case. The experience was extremely challenging and difficult, because while I did not prosecute the underlying case, I worked on the appellate brief becoming intimately familiar with the case, and ultimately argued the case to the Court. The case dealt with an area of the law which remains vitally important to the citizens of the State of

Montana, the right to privacy versus the right to know in documents filed with a state agency. These two competing rights are always before the court system as citizens wish to know what is happening in governmental bodies, while the governmental bodies are trying to protect the individual's right to privacy. In the case I argued, our goal at the Department of Corrections was to try to protect the privacy rights of those who submitted documents to the Montana Board of Pardons and Parole from having personal identifying information disclosed to inmates, specifically the victims of their offenses, and to prevent disclosure of any information which could jeopardize the safety and security of the institution of the Montana State Prison, and we accomplished that goal.

I also addressed the significant problem of inmate litigation over sentence calculations during my tenure at the Montana Department of Corrections, handling the bulk of the inmates Habeas Corpus petitions filed with the Montana Supreme Court and the Federal District Court. In addressing the issue facing the Department, I had to deal with the calculation of inmate's accumulated good time credits under prior statutory schemes which had varying rates of reward based upon which classification or status the inmate held within the Montana prison system. I worked very hard with the records supervisor at the Montana State Prison to develop a spreadsheet which could be utilized on each inmate's sentences to calculate their discharge of each prison sentence imposed, regardless of the number or the manner in which it was imposed. During this process, I also lobbied for and ultimately worked to implement a state-wide inmate record database system, which made the inmate records available to staff of the Department who worked directly with the inmates and eliminated the risk of lost documentation through the use of secure data storage for the inmate records. I look back on the numbers of cases prosecuted before the Montana Supreme Court during my tenure and the spike in Habeas Corpus petitions rose and then dropped off precipitously after I finalized the sentence calculation spreadsheet and worked to get it implemented system wide.

I am also very honored to have specialized in a complex body of law which rarely garners the attention of the Montana Supreme Court, that of the Montana Youth Court Act, and I am now recognized as an expert on the act and the statutory framework which governs this civil body of law, but applies the criminal standards of proof and evidentiary rules. I also deal with Youth in Need of Care proceedings which are emotionally draining and difficult, but when they succeed in eliminating the abuse and neglect, are very rewarding as you see families reunited, or you see children placed into loving adoptive homes.

57. State any pertinent information reflecting positively or adversely on you that you believe should be disclosed to the Judicial Nomination Commission.

I believe that my credentials and experience speak for themselves and I am honored to be considered for this position. If the Judicial Nomination Commission has further questions or seeks additional information, I would be happy to answer any questions or provide any additional information.

58. Is there any comment that you would like to make that might differentiate you from other applicants or that is unique to you that would make you the best District Court judge candidate?

I have a wide range of legal experiences from working as a partner in a law firm with a colleague right after being sworn in as an attorney, working as a Special Assistant Attorney General and working as a prosecutor at the County Attorney's Office. These experiences allowed me to deal with many different complex and serious cases from prison riot litigation, inmate civil rights issues, child custody, dissolution of marriage, personal injury, criminal defense, risk management, and most criminal offenses prosecutable under the Montana Code. I have dealt with budgeting issues facing the Montana Department of Corrections, fiscal impact statements on legislation, and with the public on a daily basis. I believe that my experience in all of these different positions and my credentials at crafting solutions to complex legal problems over my twenty-one years of practice will serve me well as a District Court Judge.

### **CERTIFICATE OF APPLICANT**

I understand that the submission of this application expresses my willingness to accept appointment as District Court Judge for the 8th Judicial District, if tendered by the Governor, and further, my willingness to abide by the rules of the Judicial Nomination Commission with respect to my application and the Montana Code of Judicial Conduct, if appointed.

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(Date)

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(Signature of Applicant)

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A signed original **and** an electronic copy of your application and writing sample must be submitted by  
*5:00 p.m. on Wednesday, March 25, 2015.*

**Mail the signed original to:**

**Lois Menzies  
Office of Court Administrator  
P.O. Box 203005  
Helena, MT 59620-3005**

**Send the electronic copy to: [mtsupremecourt@mt.gov](mailto:mtsupremecourt@mt.gov)**

Application form approved 7/10/93  
Revised 9/15/2009

*EDITED FOR PURPOSES OF CONFIDENTIALITY*

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Telephone: (406) 454-6915

Attorney for the State, Plaintiff

**MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY**

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IN THE MATTER OF	)	Cause No.
MINOR CHILD,	)	XXX-XX-XXX
YOUTHS IN NEED OF CARE.	)	

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**MOTION FOR LEAVE TO AMEND PETITION FOR TERMINATION OF PARENTAL RIGHTS TO CHANGE THE STATUTORY THEORY AND TERMINATION OF PARENTAL RIGHTS, AND PERMANENT LEGAL CUSTODY AND MOTION FOR SUMMARY JUDGMENT PURSUANT TO M.R.CIV.P. RULE 56.**

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**I. INTRODUCTION**

The State, through Matthew S. Robertson, Deputy County Attorney for Cascade County, on behalf of the Montana Department of Public Health and Human Services (DPHHS), respectfully moves the Court for leave to Amend the previously filed Petition for Termination of Parental Rights on the basis of aggravating circumstances which was withdrawn at the hearing on April 22, 2013, and moves the Court to reinstate the petition as amended. The State respectfully shows BIRTH FATHER'S parental rights to MINOR CHILD should be terminated on the statutory theory as set forth in M.C.A. §41-3-609(1)(f), **WHERE FAILURE OF A TREATMENT PLAN IS NOT REQUIRED**, pursuant to M.C.A. §41-3-609(1)(f) and §41-3-609(4)(c). In support of the State's Motion for Leave to Amend and reinstate the Petition, and

Motion for Summary Judgment, the State files the following:

## **II. CHILD**

The pertinent information regarding the above-named youth(s) follows:

Full Name:	MINOR CHILD
Age and Date of Birth:	xx AGE DOB: BIRTH DATE – Kinship care in City, MT.

## **III. PARENTS**

The pertinent information regarding the parents(s), guardian(s), person(s) having legal custody of the youth(s) follows:

Name:	BIRTH MOTHER PARENTAL RIGHTS TERMINATED
Relationship to Youth(s):	Birth Mother
Name:	BIRTH FATHER
Relationship to Youth(s):	Birth Father INMATE NUMBER PRISON ADDRESS

## **IV. TRIBE**

Petitioner believes the Youth, MINOR CHILD, is an Indian child who is enrolled in the MINOR CHILD'S INDIAN Tribe, Indian Tribe's Mailing Address.

## **V. PROTECTIVE CUSTODY**

The above-named youth has been under the protective custody of the DPHHS since REMOVALDATE and has been in licensed foster care since that date.

## **VI. ADJUDICATION**

The above-named youth was adjudicated as abused, neglected, or dependant within the meaning of sec. 41-3-102, MCA, on Date of Adjudication. Treatment plans were ordered for the birth mother, on Date of Dispositional Hearing imposing Treatment plan. The birth father was



not given a treatment plan as none of the factual allegations which were made at the time of removal involved his parenting the minor child. Further, no treatment plan, no preservation services and no reunification services could be provided, nor can they be provided on the record presently before the Court.

## **VII. FACTS AND AGGRAVATING CIRCUMSTANCES**

The facts to support the State's theory for terminating the parental rights birth father, BIRTH FATHER, are that he has been informed of the current status of his minor child and he has been unable to parent and will be unable to parent due to his incarceration in a federal correctional facility for the next approximately 37 years, and on probation for 20 years after his prison term ends, as more fully described in the accompanying affidavit of Child Protection Specialist JUDY HARTELIUS, and based upon the conviction previously filed in this case.

The child, MINOR CHILD has been placed into protective custody for abuse allegations while in the Mother's care. MINOR CHILD remains in the custody of the State of Montana and the Birth Father, BIRTH FATHER, will be unable to parent and no reasonable efforts to reunify and no treatment plan should be required due to the aggravating circumstances as set forth in the Affidavit of JUDY HARTELIUS.

## **VIII: MOTION FOR SUMMARY JUDGMENT**

The State moves as part of this Petition for summary judgment on the basis of the prior pleadings and upon the preliminary findings issued by the Court following the hearing on April 22, 2013. The State argues that MCA 41-3-609(1)(f) and §41-3-609(4)(c) allow the Court to terminate the Father's parental rights when the Father is currently incarcerated and will be incarcerated for a period of more than one year and reunification of the child with the parent is not in the best interests of the child because of the child's circumstances, including the

placement options, her current age, AGE, and her developmental, cognitive, and psychological needs.

**1 – ADJUDICATION AS A YOUTH IN NEED OF CARE**

First, the State has proven beyond a reasonable doubt that the minor child has been adjudicated youth in need of care pursuant to this Court's order of adjudication issued on *Adjudication Date*. There is no dispute about the adjudication as youth in need of care by this Court as the Court must take judicial notice of its own order of adjudication which has not been appealed, or otherwise overturned by a superior court. This fact has been proven beyond a reasonable doubt and the Court should find so for purposes of terminating parental rights under M.C.A. §41-3-609(1)(f).

**2 – M.C.A. §41-3-609(1)(f)(i) IS SUPERSEDED BY M.C.A. §41-3-609(4)(c)**

Second, the requirements of M.C.A. §41-3-609(4)(c), apply in this case, which establishes that no treatment plan should be required under M.C.A. §41-3-609(1)(f)(i). This Court took judicial notice of the conviction of the Father at the hearing on April 22, 2013, which was not contested by the Father during the hearing, nor was it objected to when filed. The State has proven beyond a reasonable doubt that the Birth Father BIRTH FATHER, has been convicted of aggravated sexual abuse of a minor child in Federal District Court before the Honorable Federal District Court Judge, Title. Further, BIRTH FATHER, has been sentenced to prison for a term of PRISON TERM, followed by 20 years of supervised release for the offense, beginning on DATE OF SENTENCING, approximately three years and six months prior to the hearing on DATE OF HEARING, and more than two years prior to the adjudication of the minor child as youth in need of care. No treatment plan should be required in this case pursuant to

M.C.A. §41-3-609(4)(c) which states:

“a treatment plan is not required under this part upon a finding by the court following hearing if: the parent (father) will be incarcerated for more than one year and reunification with the child is not in the best interests of the child because of the child’s circumstances, including placement options, age, and developmental, cognitive, and psychological needs.” M.C.A. §41-3-609(4)(c).

This Court held a hearing on HEARING DATE, at which time the State presented evidence and testimony and this Court made preliminary findings of fact, conclusions of law, and permitted the State to withdraw their petition to terminate based solely on aggravating circumstances which is not permitted under the statutes because of the Indian Child Welfare Act.

The State proved beyond a reasonable doubt, as found in the preliminary findings, that the father, BIRTH FATHER, has not had any contact with the Youth since his incarceration following his conviction in DATE OF CONVICTION, when he was placed in the Federal Prison. This Court has taken judicial notice of the conviction in FEDERAL CASE NUMBER, and has found that the Father, BIRTH FATHER, will be incarcerated in a Federal Correctional Facility for PRISON TERM, and ending on approximately DISCHARGE FROM PRISON DATE, followed by 20 years of supervised released, as set forth in the judgment and sentence cited above. Additionally, this minor child has been in the custody of her current placement for over 17 months, has attached to this placement, is doing well in school, has made attachments with her peer group, and disruption of these bonds will result in serious emotional and psychological damage to the child as set forth in the affidavit of the Child Protection Specialist, Judy Hartelius, and the testimony of the Indian Child Welfare Expert, Anna Fisher, which was provided to the Court at the hearing held on HEARING DATE.

**3 – THE FATHER’S CONDITION RENDERING HIM UNFIT IS UNLIKELY TO CHANGE IN A REASONABLE TIME.**

Third, the conduct or condition of the father, Birth Father, which renders him unfit to parent at all times prior to the State's involvement in this case, and for the next thirty-six years and approximately six months, will not change. There is no reunification services which could be implemented by the State which would reunite Birth Father with his child, nothing statutorily which would prevent termination, and no reunification services should be required.

While the State is aware that there is a pending post conviction relief petition before the Federal District Court which has recently been filed as of FILING DATE, the State does not believe that the pending post conviction relief petition will be resolved within one year as it will require transcripts of proceedings, hearings, and findings by that court that ineffective assistance of counsel occurred. Further, even if the petition for post conviction relief is successful, it will merely result in a new criminal trial and during this time period, the Father, Birth Father, will remain in a jail, or correctional facility, which will extend for several more months if not several more years. The Father, Birth Father, has been an inmate without contact with this child since DATE OF SENTENCING, the date of sentencing, a period of approximately three years and six months as of the filing of this petition and brief. Finally, if his current proceedings are unsuccessful, Birth Father will remain incarcerated for approximately FEDERAL PRISON TERM, depending on small variables with the Federal sentencing statutes.

**4 – AN INDIAN CHILD WELFARE EXPERT HAS TESTIFIED THAT THE CHILD WILL BE HARMED.**

Fourth, the State has provided the Court with testimony from Indian Child Welfare Expert Anna Fisher, who is an enrolled Blackfeet Tribal member, and who is married to a Northern Cheyenne tribal member and her children are enrolled members of the Northern Cheyenne Tribe in compliance with M.C.A. §41-3-609(5).

Anna Fisher testified that continued custody by the Father, Birth Father, would cause

serious emotional damage to the child due to the complete disruption of her life and her socialization within the current foster/pre-adoptive placement. The Court heard testimony that as this minor child is AGE old and going through some of the most difficult formative years for a child as they transition from childhood into adulthood and has only known stability since her foster placement at the outset of this case. The testimony was uncontroverted at the hearing on DATE OF HEARING.

**THE PROVISIONS OF M.C.A. §41-3-423(2) DO NOT APPLY.**

The State argues that the provisions limiting the aggravating circumstances do not apply in this case based upon a re-reading of the statutory provisions. Upon review of the statute, M.C.A. §41-3-423(2) states “Except in a proceeding subject to the Indian Child Welfare Act, the department may, at any time during an abuse and neglect proceeding, make a request for a determination that preservation or reunification services need not be provided.” The statute goes on then to list what findings the court may make which would permit a finding that the department need not make reasonable efforts to provide reunification or preservation services as set forth in subsections (a) through (e).

The State argues that these provisions of M.C.A. §41-3-423(2)(c) do not relate to termination of parental rights where the court has found that no reunification services or preservation services could be implemented by the department in cases when the parent is going to be incarcerated for a period of more than one year under M.C.A. §41-3-609(4)(c), which is the current posture of the case in this proceeding. The provisions of the code relating to preservation or reunification services and the prohibition in statute from using them in cases under the Indian Child Welfare Act should not and do not apply to the factual assertions now pled by the State. In the instant case, the State argues that while reunification or preservation services could be

provided, there is NO treatment plan which could or would result in the reunification of this minor child with the Birth Father due to his incarceration for a period of more than one year. The State contends that M.C.A. §41-3-423(2)(c) applies only to cases where the State seeks to terminate without imposition of a treatment plan for the specified reasons set forth in subsections (a) through (e), which does NOT list incarceration as one of the aggravating circumstances which would be precluded under the statute, as set forth in M.C.A. §41-3-609(4)(c).

## **IX CONCLUSION**

The State argues that the Court has jurisdiction to terminate the parental rights, and should terminate the parental rights, of the Father, Birth Father, as the State has proven beyond a reasonable doubt at the hearing on HEARING DATE, that:

- (1) the Youth has been adjudicated as a youth in need of care on ADJUDICATION DATE, and all of the following exist:
- (2) a treatment plan should not be required under M.C.A. §41-3-609(1)(f)(i) because the father, Birth Father, is incarcerated or will be incarcerated for more than one year, and that reunification of the child with the parent is not in the best interests of the child because of the child's circumstances, especially this child's age (AGE), her developmental, cognitive, and psychological needs, including her need to establish herself within her peer groups and educational progress with her peer group; and the current familial bond she has developed with the current foster/pre-adoptive placement, as provided for in M.C.A. §41-3-609(4)(c);
- (3) the conduct or condition of the parent rendering him unfit is unlikely to change within a reasonable time given the undisputed fact that he has been convicted

and sentenced to the Federal Prison for a term of FEDERAL PRISON TERM,  
pursuant to M.C.A. §41-3-609(1)(f)(ii); and

- (4) That an Indian Child Welfare Expert has testified that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child, pursuant to M.C.A. §41-3-609(5).

WHEREFORE, Petitioner prays for the following relief:

1. That the Court GRANT the State's Motion to Amend the Petition to Terminate Parental Rights to set forth the new statutory theory for termination under M.C.A. §41-3-609(1)(f) and M.C.A. §41-3-609(4)(c).
2. That the Court grant Summary Judgment and issue an order terminating the parent-child legal relationship between MINOR CHILD, the above-named Youth, and BIRTH FATHER, Birth Father on the basis that the youth has been adjudicated youth in need of care, an appropriate treatment plan is NOT required pursuant to M.C.A. §41-3-609(4)(c), and the conduct, or condition of the father rendering him unfit is unlikely to change within a reasonable time.
3. An order granting Permanent Legal Custody of the Youth, MINOR CHILD, to DPHHS.
4. For such other relief as the Court deems just.

DATED this \_\_\_\_\_ day of April, 2013.

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Matthew S. Robertson  
Deputy Cascade County Attorney  
Cascade County, Montana

cc: County Attorney/Robertson  
DPHHS/JUDY HARTELIUS  
DPHHS Supervisor/Lorri Clark  
Placement/c/o Clancy – CA office  
GAL/CASA-CAN Office – NAME REMOVED FOR CONFIDENTIALITY  
Tribe/ Northern Cheyenne Tribe, P.O. Box 128, Lame Deer, MT 59043  
Father- Birth Father/ C/O Counsel of Record – Kaydee Snipes  
BIRTH FATHER/ c/o Attorney  
Attorney for BIRTH FATHER/ Kaydee Snipes